

§ 204.304

8 CFR Ch. I (1–12 Edition)

other country, rather than in the country of citizenship, if the Central Authority (or another competent authority of the country in which the child has his or her actual residence) has determined that the child's status in that country is sufficiently stable for that country properly to exercise jurisdiction over the child's adoption or custody. This determination must be made by the Central Authority itself, or by another competent authority of the country of the child's habitual residence, but may not be made by a non-governmental individual or entity authorized by delegation to perform Central Authority functions. The child will not be considered to be habitually resident in any country to which the child travels temporarily, or to which he or she travels either as a prelude to, or in conjunction with, his or her adoption and/or immigration to the United States.

§ 204.304 Improper inducement prohibited.

(a) *Prohibited payments.* Neither the applicant/petitioner, nor any individual or entity acting on behalf of the applicant/petitioner may, directly or indirectly, pay, give, offer to pay, or offer to give to any individual or entity or request, receive, or accept from any individual or entity, any money (in any amount) or anything of value (whether the value is great or small), directly or indirectly, to induce or influence any decision concerning:

- (1) The placement of a child for adoption;
- (2) The consent of a parent, a legal custodian, individual, or agency to the adoption of a child;
- (3) The relinquishment of a child to a competent authority, or to an agency or person as defined in 22 CFR 96.2, for the purpose of adoption; or
- (4) The performance by the child's parent or parents of any act that makes the child a Convention adoptee.

(b) *Permissible payments.* Paragraph (a) of this section does not prohibit an applicant/petitioner, or an individual or entity acting on behalf of an applicant/petitioner, from paying the reasonable costs incurred for the services designated in this paragraph. A payment is not reasonable if it is prohib-

ited under the law of the country in which the payment is made or if the amount of the payment is not commensurate with the costs for professional and other services in the country in which any particular service is provided. The permissible services are:

- (1) The services of an adoption service provider in connection with an adoption;
- (2) Expenses incurred in locating a child for adoption;
- (3) Medical, hospital, nursing, pharmaceutical, travel, or other similar expenses incurred by a mother or her child in connection with the birth or any illness of the child;
- (4) Counseling services for a parent or a child for a reasonable time before and after the child's placement for adoption;
- (5) Expenses, in an amount commensurate with the living standards in the country of the child's habitual residence, for the care of the birth mother while pregnant and immediately following the birth of the child;
- (6) Expenses incurred in obtaining the home study;
- (7) Expenses incurred in obtaining the reports on the child as described in 8 CFR 204.313(d)(3) and (4);
- (8) Legal services, court costs, and travel or other administrative expenses connected with an adoption, including any legal services performed for a parent who consents to the adoption of a child or relinquishes the child to an agency; and
- (9) Any other service the payment for which the officer finds, on the basis of the facts of the case, was reasonably necessary.

(c) *Department of State requirements.* See 22 CFR 96.34, 96.36 and 96.40 for additional regulatory information concerning fees in relation to Convention adoptions.

§ 204.305 State preadoption requirements.

State preadoption requirements must be complied with when a child is coming into the State as a Convention adoptee to be adopted in the United States. A qualified Convention adoptee is deemed to be coming to be adopted in the United States if either of the following factors exists: